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**Wednesday, June 18, 2003**



THE HONOURABLE DAN HAYS  
SPEAKER

## CONTENTS

(Daily index of proceedings appears at back of this issue).

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## THE SENATE

Wednesday, June 18, 2003

The Senate met at 1:30 p.m., the Speaker in the Chair.

Prayers.

### SENATORS' STATEMENTS

#### TRIBUTES

THE HONOURABLE RAYMOND C. SETLAKWE, C.M.

**The Hon. the Speaker:** Honourable senators, I received a notice earlier today from the Leader of the Government in the Senate who requests, pursuant to rule 22(10), that the time provided for the consideration of Senators' Statements be extended today for the purpose of paying tribute to the Honourable Senator Setlakwe, who will retire from the Senate on July 3, 2003.

We have new rules in this area. I would remind honourable senators that, pursuant to our rules, each senator will be allowed three minutes to speak, and no senator may speak more than once. The time for tributes shall not exceed 15 minutes; however, that 15 minutes does not include Senator Setlakwe's response. Our rules are quite strict on the extension of time. I already have a list of eight senators who have indicated that they wish to speak, so I may not be able to recognize all senators who wish to speak.

**Hon. Sharon Carstairs (Leader of the Government):** Honourable senators, I rise today to offer my very best wishes, and those of his caucus, to our colleague Senator Setlakwe, who embarks on his retirement in a few weeks.

Many of you know of Senator Setlakwe's achievements, but you may not know that they are based on strong family values instilled by his grandfather Aziz. Upon the senior Setlakwe's arrival to Canada, he changed the family name to remember his brothers back home, and he began a successful family business.

[Translation]

Senator Setlakwe devoted his time and energy to many organizations, including hospitals and universities. His student years at Bishop's University, during which he fought a reluctant administration in order to establish a Young Liberals Club, served as a precursor to his career as a lawyer and politician.

Those of us in the Liberal Party of Canada have been lucky to benefit from his support over the years, but the greatest legacy he leaves is the precious support he has given to many people in his community, which has earned him the Order of Canada.

[English]

We congratulate Senator Setlakwe on receiving a Doctor of Civil Law *honoris causa* from Bishop's University two weekends

ago, and we wish him every happiness in his future endeavours. The warmth of his personality and his love of fun and fellowship will be much missed in this place.

• (1340)

[Translation]

**Hon. Jean-Claude Rivest:** Honourable senators, on behalf of our caucus, I would like to pay tribute to our colleague and friend Raymond Setlakwe. There is no one who is more of a Liberal than Senator Setlakwe; it is not humanly possible. For many years, he has been committed to working for his fellow citizens, for the Liberal Party of Canada and for the Liberal Party of Quebec. He has served the people of his region, the Asbestos region of Quebec, admirably.

As a Quebecker and Canadian, he championed a certain vision of Canadian federalism, a vision he tried to convince me was right. I am sure Raymond saw me as a delinquent federalist, like many other federalists from Quebec. He champions a strong, solid federalism, one that is balanced from one end of the country to the other by celebrating the principles on which the Canadian Charter of Rights and Freedoms was based. Under the charter, all citizens of Canada are equal. Raymond Setlakwe's position is both noble and dignified, and it has been his life's work.

Being such a Liberal, he is particularly happy now because in his region there is a Liberal member elected to the House of Commons and a Liberal MNA in Quebec's National Assembly. Even more recently, last week, the new mayor of Thetford Mines was elected, also a good Liberal. Given that political pluralism is a Liberal value, I am sure that in his free time, our colleague will help to promote this pluralism by working for the re-election campaign of the Progressive Conservative member for Richmond.

We thank him and congratulate him. We wish him a happy retirement. Canadians, Quebeckers, the people of the Asbestos region and his colleagues all wish him the best in the years to come. Thank you, Raymond!

[English]

**Hon. B. Alasdair Graham:** Honourable senators, the southeast corner of Quebec is an area rich in history and spectacular scenic beauty.

[Translation]

This area of enchantment is known as the Eastern Townships. Its landscape has been shaped by historical immigrations, and it never fails to enchant the visitors of today.

[English]

The Municipalité d'Irlande is home to many venerable sites. One of the most significant and the most beautiful is the Holy Trinity Church in picturesque Maple Grove.

Last May, the first phase of restoration work commenced with the unveiling of the church's splendid stained glass windows, which have been re-lead and reinstalled. As one would expect, the prime mover behind this project was our own Senator Raymond Setlakwe, who put his prodigious energies to work along with local heritage organizations, with support from Heritage Canada.

Whether it is the Bishops or Laval University Foundations, the Montreal Heart Institute, the Thetford Mines Hospital Foundation, or fundraising for the CEGEP de Thetford Mines, Senator Setlakwe has proven to be a devoted son of a region rich in some of the greatest political names to grace Canadian and Quebec politics.

[*Translation*]

I am thinking of the likes of Sir Wilfrid Laurier and Louis Saint-Laurent.

[*English*]

All honourable senators are aware of Senator Setlakwe's deep interest in his Armenian heritage, a devotion he shared with his well-known cousins, Malak and Yousef Karsh.

The Senate's recognition of the Armenian genocide was adopted with some considerable emotion last June. I remember listening carefully to the important statement made at that time by Senator Setlakwe. "Humanity is far from being safe from a repetition of this massacre," he said. "Therefore, it is all the more important that the genocide be recognized. Africa and many other places in the world are threatened by this sort of barbaric behaviour."

While the Armenian history may seem, in many ways, to be far from the Municipalité d'Irlande and Maple Grove, both of these communities spring from the passion of outstanding Canadians like Senator Setlakwe, who are truly dedicated to the spirit of all those hard-working immigrants who made this country what it is today.

Senator Setlakwe's time in this place has been all too short, but the chamber as a whole and the committees on which he served have been the beneficiaries of not only his wonderful good humour but also his wise counsel and wide experience in the field of domestic and international business.

**The Hon. the Speaker:** Senator Graham, I am sorry to interrupt, but I must advise that your time has expired.

[*Translation*]

**Hon. Yves Morin:** Honourable senators, I did not know Senator Setlakwe before coming to the Senate two years ago. He quickly became one of my best friends. How can a person not be friends with someone who tells you, as he told others: "Yves, you are the only friend I have left."

Since we both come from Eastern Quebec, I, too, would like to stress his great contribution to his birthplace, Thetford Mines.

The son of immigrants, he soon became instrumental in the economic and social development of the Asbestos region.

[*English*]

Senator Setlakwe, as honourable senators know, is an accomplished athlete. He has regularly performed a feat that even Senator Mahovlich cannot repeat. He dives every morning, from May to October, into the frigid waters of Lake Aylmer. What is unusual is that he does this in the nude. As a consequence of this regime, the manager of the local optics store has been surprised to sell so many binoculars to the ladies of Lake Aylmer.

[*Translation*]

Seriously, I must say that Senator Setlakwe is a loyal and generous friend. The Senate will not be the same without him. We are very sorry to see him leave.

He can be assured of our friendship and gratitude. We wish him a healthy and happy retirement with Yvette, his four children, his six grandchildren and — a Senate record, this — his great-grandson, Philippe.

[*English*]

**Hon. Richard H. Kroft:** Honourable senators, our colleague Raymond Setlakwe came to the Senate rich in human experience. He has generously shared with all of us the wisdom born of that experience. Through his stories, speeches and poetry, he has conveyed both his views on life and his remarkable enjoyment of it. His love of politics is at the centre of his being. It is impossible to say whether he has been devoted to politics because of what he is, or whether he is the person he is because of politics. No doubt, both are true.

Raymond has a passion for engagement in the events of his time and for the enjoyment of people who are at the centre of those events. He has a deep caring for the well-being of his people and is dedicated to the defence of their interests.

Who are his people? They are anyone who attracts the attention and interests of this man of many parts. They are those with whom he shares his complex and fascinating heritage. They are the people of his city and his region, in whose service he has worked for decades. They are the people he sees as not getting a fair break from society. They are small business people with a problem, or victims of social, natural or economic disaster.

Raymond is a man of the world, an extraordinarily well-travelled and sophisticated business person, and, of the highest importance, he is a dedicated student and gifted practitioner of the art of golf.

He is a devoted family man, and for good reason. To know Yvette is to understand a great deal of Raymond's success.

I have come to know Raymond well in a short time. I have come to appreciate him as a passionate Liberal and as a compassionate friend. Raymond has lit up this place with his joy in being part of our unique community. I believe he will miss us; I know we will miss him.

• (1350)

**Hon. Isobel Finnerty:** Honourable senators, I salute Raymond Setlakwe as one political organizer to another. Much has been said and will be said about Senator Setlakwe's public service, business acumen and success, and about his fundraising expertise on behalf of educational institutions and medical research. We, in Ontario and elsewhere in Canada, know that, in Quebec at least, Senator Setlakwe's reputation in many fields is legendary.

During the last decade, Senator Setlakwe and I have both been involved, at the grassroots level, in our national political party, doing all of those things across our respective provinces that we could do to promote our party and to provide the organizational framework for our party's repeated electoral successes.

I salute Senator Setlakwe's energetic commitment to Canada at a time of transition in Quebec, a time when extreme nationalism has been successfully challenged by common sense. The new government in Quebec owes its arrival to many factors, not least of which is the ongoing work of patriots like Senator Setlakwe.

I extend my best wishes to him and his family in all their future endeavours. We will miss him and his humour very much.

[*Translation*]

**Hon. Lise Bacon:** Honourable senators, I was Senator Setlakwe's sponsor when he arrived in the Senate, so I, too, would like to pay tribute to him. Senator Setlakwe has always been a man who gave freely of his time to benefit his community. As well as being a great entrepreneur, he has also been a solid and committed citizen. There is no doubt that this is a great Canadian, and one whose interest in politics was born of his passion and commitment to this country.

Honourable senator, friend and colleague, I wish you a great retirement, with all my heart. Your lovely wife will certainly keep you busy. I hope you will have the opportunity to come back and visit us, because we will miss you. I am sure you will continue to be very active within your community and full of energy for many years to come.

[*English*]

**The Hon. the Speaker:** Honourable senators, before calling on Senator Setlakwe, who will have unlimited time, I wish to draw your attention to the presence in our gallery of his wife, Yvette, two of their sons and other members of their family, and friends. We welcome you to the Senate of Canada.

**Hon. Senators:** Hear, hear!

[ Senator Kroft ]

[*Translation*]

**Hon. Raymond C. Setlakwe:** Honourable senators, first I want to express my gratitude for the honour and privilege bestowed on me by the Right Honourable Jean Chrétien when he appointed me to the Senate of Canada; I have endeavoured to do my duty to the best of my abilities. I greatly admire that man. His character and his dedication to the Canadian cause have always impressed me.

Recently, on the CBC, I heard someone say that Canadian democracy lacked two things: a fascist party on the right and a Marxist-Leninist party on the left. This statement is surprising in that it does not consider the fact that the strength and greatness of this country are attributable to several ideas shared by the various political parties and to the many things that unite us, not to anything that would divide us.

I am deeply moved by the tributes from both sides of the House, and I thank the honourable senators for them.

The most significant work I did in the Senate was in the three committees on which I served. I would first like to mention the Standing Senate Committee on Official Languages, and I could not do so without paying special tribute to the Honourable Jean-Robert Gauthier, who has always defended the French language in an eloquent and steadfast manner.

**Some Hon. Senators:** Hear, hear!

**Senator Setlakwe:** Honourable senator, congratulations and thank you.

[*English*]

I have also served on two other committees, the Banking Committee, which was presided over by my friend Senator Kolber, and the Foreign Affairs Committee, which was presided over by my other friend, Senator Stollery. Whatever contributions I have made to those two committees were equalled, in a certain respect, by the tremendous knowledge that I have acquired by listening to the witnesses and the members of the committee who have enriched my experience in this chamber. The three years that I have spent among you are proof positive that three years' experience can be equal to a university degree.

In *Iolanthe*, Lord Mountararat sings about the importance of leaving the House of Lords untouched because of its importance. He says he would like it to be left untouched because, even though it does nothing in particular, it does it very well.

After what I have just said to honourable senators, I do not think any of you can relate that to what occurs in this chamber. My experience here has been to the contrary, even though Bagehot said that, if one wanted a cure for admiring the House of Lords, all one had to do was to go and look at it. That is certainly not the case here today.

In any event, my time here has been rendered much easier by the services given.

[Translation]

Wednesday, June 18, 2003

I would like to pay tribute to those who are frequently taken for granted: the people who work for the security services, for human resources, for finance, for the journals and the debates, for the communications services, for installation services, for maintenance, as well as the various tradespersons, drivers, messengers and pages. I want to offer my sincere thanks to all these individuals for their services during my time here in the Senate.

[English]

I will close with this. Even though I have unlimited time, I know that the work in progress is also important. Recently, I read that Sophocles once said that one should never speak of the splendour of the day until the evening. At the evening of my political life perhaps, I would like to say that, now, I can speak of the splendour of the last three years that I have spent among you. You have enriched those three years. I am now at the evening of my life and am thankful to all of you for having made it so.

**Hon. Senators:** Hear, hear!

[Translation]

## ROUTINE PROCEEDINGS

### LIBRARY OF PARLIAMENT

#### SECOND REPORT OF JOINT COMMITTEE TABLED

**Hon. Yves Morin:** Honourable senators, I have the honour to table the second report of the Standing Joint Committee on the Library of Parliament.

[English]

### STUDY ON IMPACT OF CLIMATE CHANGE

#### REPORT OF AGRICULTURE AND FORESTRY COMMITTEE TABLED

**Hon. Donald H. Oliver:** Honourable senators, I have the honour to table the fifth report of the Standing Senate Committee on Agriculture and Forestry, which deals with the impact of climate change on Canada's agricultural, forest and rural communities and the potential adaptation options focusing on primary production practices, technologies, ecosystems and other related areas.

On motion of Senate Oliver, report placed on the Orders of the Day for consideration at the next sitting of the Senate.

### MERCHANT NAVY VETERANS DAY BILL

#### REPORT OF COMMITTEE

**Hon. J. Michael Forrestall,** Deputy Chair of the Standing Senate Committee on National Security and Defence, presented the following report:

The Standing Senate Committee on National Security and Defence has the honour to present its

### THIRTEENTH REPORT

Your Committee, to which was referred Bill C-411, An Act to establish Merchant Navy Veterans Day, has, in obedience to the Order of Reference of Tuesday, June 17, 2003, examined the said Bill and now reports the same without amendment.

Respectfully submitted,

**J. MICHAEL FORRESTALL**  
*Deputy Chair*

**The Hon. the Speaker:** Honourable senators, when shall this bill be read the third time?

On motion of Senator Forrestall, with leave of the Senate and notwithstanding rule 58(1)(b), bill placed on the Orders of the Day for third reading later this day.

[Translation]

### NATIONAL FINANCE

#### NOTICE OF MOTION TO AUTHORIZE COMMITTEE TO MEET DURING ADJOURNMENT OF THE SENATE

**Hon. Fernand Robichaud (Deputy Leader of the Government):** Honourable senators, I give notice that, at the next sitting of the Senate, I will move:

That, pursuant to rule 95(3), the Standing Senate Committee on National Finance be authorized to meet during the period September 1 to 16, 2003, even though the Senate may then be adjourned for a period exceeding a week.

### CONSTITUTION ACT, 1867

#### NOTICE OF MOTION TO AMEND SECTION 16

**Hon. Jean-Robert Gauthier:** Honourable senators, I give notice that on Friday next, the 20th day of June, 2003, I will move:

Whereas section 43 of the *Constitution Act, 1982* provides that an amendment to the Constitution of Canada may be made by proclamation issued by the Governor General under the Great Seal of Canada where so authorized by resolutions of the Senate and House of Commons and of the legislative assembly of each province to which the amendment applies;

Now therefore the Senate resolves that an amendment to the Constitution of Canada be authorized to be made by proclamation issued by Her Excellency the Governor General under the Great Seal of Canada in accordance with the schedule hereto.

SCHEDULE  
AMENDMENT TO  
THE CONSTITUTION OF CANADA

1. Section 16 of the *Constitution Act, 1867* is replaced by the following:

“16. (1) Until the Queen otherwise directs, the seat of government of Canada shall be Ottawa.

(2) In the seat of government of Canada, any member of the public has the right to communicate with, and to receive available services from, the government of Ontario and the City of Ottawa in English or French.”

CITATION

2. This Amendment may be cited as the “Constitution Amendment, [year of proclamation] (Seat of government of Canada)”.

[English]

## QUESTION PERIOD

### NATIONAL DEFENCE

#### REQUEST FOR INQUIRY INTO ACCOUNTING AND MANAGEMENT PRACTICES

**Hon. Michael A. Meighen:** Honourable senators, a report in today's *Ottawa Citizen* says:

The Canadian Forces does not know how many reserve soldiers it has...

The Honourable John Fraser, chair of the minister's monitoring committee, also concluded that the military cannot precisely trace how the money allocated to the reserves has been spent. He noted too that bureaucratic delays of up to two months in processing the applications of potential recruits are causing recruits to give up waiting. Finally, he acknowledged that the underfunding of the military may be forcing the regular army to use resources meant for the reserves.

In the light of these very serious claims, will the government conduct an inquiry into the accounting and management practices of the military regarding the issues highlighted in Mr. Fraser's report?

**Hon. Sharon Carstairs (Leader of the Government):** Honourable senators, there is no need for such an inquiry, but currently, the most accurate way of acquiring information about the number of military personnel or the strength of the military is through the pay system. The number of paycheques may fluctuate throughout the year, but, on May 3, approximately 15,600 militia personnel were issued paycheques.

[ Senator Gauthier ]

### DELAYS IN PROCESSING RECRUITMENT APPLICATIONS

**Hon. Michael A. Meighen:** Honourable senators, would the Leader of the Government in the Senate at least seek to address the delays in the processing of applications of potential recruits, given that these delays are extremely counterproductive to a military that has recently placed a great deal of emphasis on recruitment and retention?

**Hon. Sharon Carstairs (Leader of the Government):** Honourable senators, a vigorous recruiting campaign has been conducted by the Canadian Forces over the past two years. The Chief of the Land Staff, in conjunction with the Land Force Reserve Restructure project management office, will continue to work closely with the committee in preparation of their final report, which is due in November. I think we should wait until we have that report in order to have a better understanding of the land force reserve.

**Senator Meighen:** Honourable senators, I cannot help but point out to the Leader of the Government in the Senate that, according to no less an authority than Commodore Roger Girouard, the Canadian commander of the multinational task force in the Gulf, it will take the under-strength and overworked navy up to a year to recover from its mission in the Gulf. Surely, then, recruitment and retention is important, as I think the Leader of the Government in the Senate has acknowledged, and the delays in processing the applications of potential recruits clearly take away from that objective.

**Senator Carstairs:** Honourable senators, recruitment and retention are very important. However, although we are undergoing a vigorous recruiting campaign, there are delays. We are awaiting a report in November, which report will, I hope, set a path for how we can do this in the future.

• (1410)

### REPLACEMENT OF SEA KING HELICOPTERS— OPERATIONAL REQUIREMENTS

**Hon. J. Michael Forrestall:** Honourable senators, my question is for the Leader of the Government in the Senate.

In the last week, I asked the government, among other things, why the washroom curtain was removed from the new maritime helicopter specifications. The minister responded that the curtain was removed for “safety purposes.” In other cases where I have asked questions about the maritime helicopter, I have been told that the reason for reductions in specifications is that we do not need a Cold War helicopter and that technology has advanced.

Can the honourable leader explain why each of the following supposedly Cold War era technologically obsolete or safety features has been dropped from the specifications: TACAN, or tactical air navigation; slung load weight-measurement device; life rafts reduced to one 10-person life raft; infrared suppression not installed; no infrared filters; removal of one chaff and flare dispenser; and the removal of one torpedo?



If honourable senators wish, I could produce 176 such changes in the MHRS.

Will the minister not now admit that there has been a significant change and that the irony is that the only technically and probably cost-compliant aircraft will be the EH-101?

**Hon. Sharon Carstairs (Leader of the Government):** We all know the honourable senator's feelings about that particular aircraft; he has made it clear over a number of years.

The reality is that the government is not charged with looking at one aircraft and one aircraft alone. The government is charged with finding the very best aircraft to meet the needs of the Canadian military.

**Senator Forrestall:** Honourable senators, I have pleaded, for the last 10 years, for the mid-life overhaul of the Aurora. How many Hercules are operational and fully working? I could go on. The maritime replacement aircraft is not my only concern.

I am concerned about a fundamental attitude by government toward ensuring that, when we look at a pilot or a ship's captain in the eye, we do so with a clear conscience and are able to say to them: "Sir, you have the very best this country can offer." That is what I want and I hope the minister shares that desire.

**Senator Carstairs:** Honourable senators, I do not think anyone in Canada would want our Armed Forces personnel to be on ships or in aircraft that were unsafe or incapable of performing the jobs they do. That is why we have such pride in our Canadian military.

## FINANCE

### PENSION PLANS—DIFFERENCE BETWEEN PUBLIC- AND PRIVATE-SECTOR SURPLUSAGE

**Hon. David Tkachuk:** Honourable senators, the federal government plays two key roles in regard to employment pension plans. First, the government regulates the plans under its jurisdiction; and, second, it sets the tax rules to determine how much employees and employers can contribute, regardless of who is regulating the plan.

A number of years ago, some employers were forced to take contribution holidays because the tax laws do not allow surpluses to exceed 10 per cent of the cost of future benefits. This role was supposed to ensure that pension plans are not used to hide profits. The market peaked and now many of these same plans are in deficit.

The government has now announced that public-sector pension plans — for example, the Ontario Teachers' Pension Plan Board — will be able to build up surpluses of 25 per cent of future benefits, to help cushion the plans when the next bear market hits.

My question to the Leader of the Government in the Senate is this: What is the policy reason for allowing plans that cover public-sector employees to build up a cushion of 25 per cent while only allowing private-sector plans a cushion of 10 per cent?

**Hon. Sharon Carstairs (Leader of the Government):** Honourable senators, I do not know the answer, but I will seek to obtain that information for the honourable senator.

**Senator Tkachuk:** Honourable senators, is this 10 per cent versus 25 per cent split the result of the thinking of the Minister of Finance, that the only reason businesses have pension plans is to hide profits?

**Senator Carstairs:** Absolutely not.

**Senator Tkachuk:** I take it the minister knows Mr. Manley's thinking on this matter but does not know the answer to the first question.

Of the 50 largest public companies with pension plans, more than two-thirds face a plan deficit. If any of these businesses fail, their employees will not get the pension benefits they have been promised. Aside from studies, will the government leader provide the Senate with a full summary of any and all concrete measures the government is taking to ensure that there is not a repeat of this kind of pension plan meltdown?

**Senator Carstairs:** As the honourable senator knows, the organization responsible for pension plans has indicated that it is looking at a number of pension plans because there is concern that those pension plans may not be there for their employees when those employees need it.

When that review is completed, I am sure they will let us know in public, because that is how they respond, as to any future measures they think these pension plans should take.

**Senator Tkachuk:** The reason I am asking for an answer is that I know Senator Forrestall has been asking his questions on helicopters for 10 years. I do not want to wait that long for a response in regard to pension plans.

Perhaps the minister could be more definitive. When might the government be issuing a report on how it will deal with pension plans in the future?

**Senator Carstairs:** Honourable senators, when the pension plan board responds, it will release the related documentation, as it always does, to the public.

## JUSTICE

### SAME-SEX MARRIAGE

**Hon. Douglas Roche:** Honourable senators, my question is to the Leader of the Government in the Senate.

Yesterday, the government said it would move to recognize same-sex marriages in law. This issue is very troubling to many Canadians who fear the undermining of an institution so necessary to the well-being of Canadians. An end to discrimination against homosexuals should not equal an end to the existing definition of marriage as the union of one man and one woman. The time-honoured institution of marriage ought not to be impugned as discriminatory.

Why is the government capitulating to the decision of a provincial court and rushing to prepare legislation to legalize same-sex marriage in the absence of anything like a consensus in the country?

Why did the government not appeal the provincial decisions to the Supreme Court to get an authoritative view as to whether Charter rights are impeded before taking legislative action?

**Hon. Sharon Carstairs (Leader of the Government):** Honourable senators, it is not just the ruling of a provincial court, as the honourable senator has put it; it is the ruling of the chief courts of the provinces of Ontario, Quebec and British Columbia. They have all ruled on this matter. It seems clear how other courts will rule on this matter.

What the government has done is indicate that it will not appeal the decision of the court in Ontario, that it will propose legislation that will protect the right of churches and religious organizations to sanctify marriage as they define it, and that it will send that draft legislation to the Supreme Court of Canada in a reference case in order to ensure that the proposed legislation complies with the Charter.

**Senator Roche:** Honourable senators, I thank the minister for her response. However, I should like to point out that the provincial courts that ruled in this matter do not speak for all Canadians; there are many Canadians who feel that the Supreme Court, the highest jurisdiction, should have been consulted first.

• (1420)

Today, a group of distinguished Canadians wrote in *The Globe and Mail* that the commitment of Canadians to “fairness, equality and tolerance...will not be served by expropriating and reconfiguring a historic institution” designed to meet the societal needs of opposite-sex conjugal relationships.

Why is the government attempting to redesign an institution older and more fundamental to Canadian society than Parliament itself?

**Senator Carstairs:** Honourable senators, let us make a semantic distinction here. The honourable senator refers to provincial courts. Certainly, in my province, provincial courts are magistrate courts. This was not a decision of a magistrate court. This was an Ontario Court of Appeal decision. It was the same in the case of the decisions in British Columbia and Quebec, although the courts sometimes go by different names.

In terms of the honourable senator’s question with respect to fairness, equality and tolerance, I think the courts have said that the present legislation does not meet those tests of fairness, equality and tolerance. That is why the government is taking the decision that it has made.

**Senator Roche:** Honourable senators, that returns me to my essential point, which is that it is the Supreme Court of Canada that ought first to have been consulted before legislative action is taken.

[ Senator Roche ]

**Senator Carstairs:** Honourable senators, the Government of Canada does not agree with that. The government believes that because of the Ontario Court of Appeal decision, which was instant in terms of its applicability, it had to move as quickly as possible on this matter, to ensure the very fairness, equality and tolerance that the honourable senator made reference to in his previous question.

[Translation]

**Hon. Jean-Claude Rivest:** Honourable senators, is the minister aware that in Quebec the National Assembly protected the traditional institution of marriage as the union of a man and a woman and created a new institution, a civil union, allowing same-sex partners to unite under a contract, which is recognized by law and the Civil Code and which, legally speaking, has the same effects as marriage? Should the government consider following this lead so as to respect the sensitivities of a major portion of Canadian public opinion and of religious communities on the traditional institution of marriage? Could it do so while providing an appropriate and acceptable legal framework that is accepted by the gay and lesbian community, as the National Assembly of Quebec did?

[English]

**Senator Carstairs:** Honourable senators, that is exactly why legislation is now being drafted; literally, Justice officials were told to begin drafting legislation as of late yesterday afternoon. The proposed legislation will protect the right of churches and religious organizations to sanctify marriage as they define it.

[Translation]

**Hon. Roch Bolduc:** Honourable senators, I have listened to the Minister of Justice, Mr. Cauchon, saying he wants to pass a law to protect the rights of churches to define and sanctify marriage in their own way. Why do we need a law to do that? I thought this law had been in existence for 3,000 years. Why is the Parliament of Canada intervening? Who are we in terms of the history of the church, for example?

[English]

**Senator Carstairs:** Honourable senators, under the Constitution Act, Parliament has the ability to define marriage. However, as honourable senators know, many marriages in this country are performed by religious organizations. Those religious organizations shall not, in this proposed legislation — nor, I should hope, in any future legislation — be forced to do something they do not wish to do. That is why the proposed legislation would protect them from being forced to do that.

[Translation]

**Senator Bolduc:** You have a definition from the civil law, which I understand quite well, and then you have one from the churches.

[English]

**Hon. Gerry St. Germain:** Honourable senators, on this question, what would prevent certain individuals from challenging religious institutions in the courts? The minister told me yesterday that the courts reign supreme over Parliament.

If religious institutions are challenged for not wanting to participate in the performance of gay and lesbian marriages, what is there to say that they will not end up before the courts and that the courts may find them intolerant in their behaviour? What would the government do then?

**Senator Carstairs:** Honourable senators, first, I did not say that the courts reign supreme over Parliament. I said that Parliament is supreme in the making of laws. That has not changed since the beginning of this nation.

If the honourable senator is asking whether individuals could take religious organizations to court, it is for that very reason that the government will submit its draft legislation to the Supreme Court — in other words, to ensure that we have it right so that that could not happen.

#### PRIME MINISTER'S OFFICE

##### COST OF G-8 SUMMIT

**Hon. James F. Kelleher:** Honourable senators, my question is for the Leader of the Government in the Senate.

The bill for last year's G-8 summit keeps rising. Thus far, the identified costs exceed \$192 million. New documents released through an access to information request tell us that it cost \$47 million for our cash-strapped military to have 5,000 personnel secure the ground and skies over the 4,000-square-kilometre Kananaskis area. This is in addition to the \$96 million spent by the RCMP and the \$50 million spent by the Department of Foreign Affairs.

Prior to the Prime Minister deciding to move the G-8 from Calgary to Kananaskis, did he ask for any estimates as to the potential added costs of this move?

**Hon. Sharon Carstairs (Leader of the Government):** Honourable senators, I think that no one has questioned the value of that G-8 summit in terms of international development and the reputation of Canada. It was a wonderful G-8 conference. Everyone who was there and those who commented on it indicated that it was a suitable and most secure venue for doing what Canada must do — that is to say, as a member of the G-8, Canada must take its turn at hosting those events. I think the honourable senator is nodding in agreement that we must do that.

**Senator Kelleher:** No, no.

**Senator Carstairs:** Therefore, we undertook to do it. I think we did it extraordinarily well. We did it with a simpler format than, apparently, was undertaken this year at Evian. Perhaps they are going back to more formal events than in the past. However, the

Kananaskis summit worked well, so much so that I understand the United States is looking at that model for next year's meeting.

**Senator Kelleher:** Honourable senators, the leader states that no one is questioning the value of the summit. It just so happens that I am.

Could the Leader of the Government advise the Senate as to whether all the costs of the G-8 summit have now been revealed or whether other costs will be made public in the coming months, as a result of other access requests?

**Senator Carstairs:** Indeed, there may be other costs that may be attributed to this summit because each one was done according to department. That, clearly, is made available in the Public Accounts.

Honourable senators, we have to distinguish between two values: value in terms of dollars and value in terms of Canada's international representation. I happen to think we got value on both counts.

#### JUSTICE

##### SAME-SEX MARRIAGE

**Hon. Noël A. Kinsella (Deputy Leader of the Opposition):** Honourable senators, I should like to return to the government's proposed definition of marriage. My question to the minister is this: Will the current provisions in the Marriage Act, dealing with consanguinity, be applied in the proposed new definition? If not, why? If so, what will they be?

• (1430)

**Hon. Sharon Carstairs (Leader of the Government):** Honourable senators, as the present legislation was requested only yesterday, I think that we will have to wait and see.

#### HERITAGE

##### CALGARY PHILHARMONIC ORCHESTRA— REQUEST FOR FUNDS

**Hon. Tommy Banks:** Honourable senators, we seem to be talking about who is running the country. The questions have been about the courts. I will come at it from the other end.

With the greatest respect to the people who are in bureaucracy, who serve us extremely well, I have a question for the Leader of the Government that relates to a question asked yesterday to do with the Winnipeg Symphony Orchestra. Honourable senators will recall that both the Winnipeg Symphony and the Calgary Philharmonic Orchestras were in emergency situations and requested funds.

In the case of the Calgary orchestra, the province and the City of Calgary responded to a proposal put forward by the board of the orchestra to contribute \$250,000 to an emergency fund. Approximately \$800,000 was raised from Calgary individuals for that same fund on the condition that everyone would be in the game, including the federal government, which was last in, as is often the case. Everyone else was there, and everyone's contribution is conditional on everyone else's contribution.

I was a participant in a telephone call with an honourable minister who informed a member of the board of the Calgary Philharmonic Orchestra that the federal government had found a way to make that money available and that it would be done forthwith. That telephone conversation was in April.

To date, not a dime of money has been delivered. The upshot is that, if it is not delivered, \$800,000 will be returned to the citizens of Calgary who donated it; \$250,000 will be sent back to the corporation of the City of Calgary; and \$250,000 will be sent back to the Province of Alberta. That is \$1.3 million.

Providing support to the Calgary orchestra was an undertaking made by a minister of the Crown. The contribution was announced in the newspapers. There were parties in the streets because the feds had come through.

In the same sense that Senator Stratton asked the question yesterday, can the federal government not find the means to decide what will happen and who will run the country?

**Hon. Sharon Carstairs (Leader of the Government):** I thank the honourable senator for his question. Unfortunately, not only are the Winnipeg and Calgary orchestras in financial trouble, but so is the Vancouver Philharmonic Orchestra. My answer is the same as yesterday. I anticipate an answer very soon to this matter.

#### TRIBUTE TO PAGES ON DEPARTURE

**The Hon. the Speaker:** Honourable senators before proceeding to Orders of the Day, I would like to express our thanks to some of the pages who are leaving us this year.

Francis Poulin is from Zenon Park, Saskatchewan, and is presently completing a bachelor of arts degree with honours in history and a concentration in philosophy at the University of Ottawa.

[Translation]

Francis intends to work this fall and continue his studies later, either taking a masters degree in history or a masters degree in business administration.

[English]

Alexa Reynolds is from North Vancouver, B.C. In the fall, she will continue her studies at the University of Ottawa, in history and global studies. During the winter semester she will travel to Costa Rica, where she will study in San José.

[Translation]

Suzanne Gallant is from Moncton, New Brunswick. In September, she will begin her final year for an honours degree in political science at the University of Ottawa, specializing in political thought. Later, she intends to pursue post-graduate studies at a European university.

[English]

It has been a privilege and pleasure to have them with us. We thank them sincerely for all of their assistance to us during their time here.

[ Senator Banks ]

**Hon. Senators:** Hear, hear!

[Translation]

#### VISITORS IN THE GALLERY

**The Hon. the Speaker:** Honourable senators, I wish to draw to your attention the presence in the gallery of the Club de l'âge d'or Santa Rita, from the Montreal area. This club is affiliated with the Conseil Régional des personnes âgées italo-canadiennes, which was founded by the Honourable Marisa Ferretti-Barth. They are the guests of Senator Ferretti-Barth. On behalf of all the senators, I welcome you to the Senate of Canada.

[English]

#### ORDERS OF THE DAY

##### APPROPRIATION BILL NO. 2, 2003-04

##### THIRD READING

**Hon. Joseph A. Day** moved the third reading of Bill C-47, for granting to Her Majesty certain sums of money for the public service of Canada for the financial year ending March 31, 2004.

He said: Honourable senators, I spoke at length on this bill yesterday. It is a supply bill needed to carry on the business of government. I ask for your support of this bill at this time.

**The Hon. the Speaker:** I see no other senator rising to speak. Are honourable senators ready for the question?

**Hon. Senators:** Question!

**The Hon. the Speaker:** Is it your pleasure, honourable senators, to adopt the motion?

Motion agreed to and bill read third time and passed.

##### INJURED MILITARY MEMBERS COMPENSATION BILL

##### THIRD READING

On the Order:

Resuming debate on the motion of the Honourable Senator Day, seconded by the Honourable Senator Forrestall, for the third reading of Bill C-44, to compensate military members injured during service.

**Hon. Michael A. Meighen:** Honourable senators, it is rare in public life that one plans to speak on a Senate committee report that identifies and raises a specific problem only to have it overtaken by the solution. That is basically what has happened to me. It was good committee work. All of those who worked so hard to cause me this welcomed embarrassment deserve the congratulations and acknowledgement for a job well done from all of us in this chamber.

Therefore, my remarks today will deal with the report from the Subcommittee on Veterans Affairs entitled "Fixing the Canadian Forces' Method of Dealing with Death and Dismemberment" and the bill that purports to fix the problem, Bill C-44.

I would like to begin by going through the major issues raised in the report of the subcommittee because it puts Bill C-44 in context. Without knowing the issues raised in our report, it is difficult to address the rationale for Bill C-44. This bill has only come about because of the courage and persistence of Major Bruce Henwood whose ordeal is the subject of the report. I trust honourable senators will grant me some latitude as I relate our report to Bill C-44.

[*Translation*]

Honourable senators, I would like to begin by congratulating Senator Atkins, who spoke on this report on May 15 in this chamber. I thank him for setting out in detail the reason for our hearings on the subject and what we feel we have accomplished as a committee.

This report is, in fact, the story of Major Bruce Henwood, starting with the day in 1994 when he lost both legs and continuing to the present. Major Henwood was serving in the 8th Canadian Hussars of the Canadian Forces, which was involved in the United Nations peacekeeping mission in Croatia. The vehicle he was driving hit an antitank mine and the resulting explosion cost him not only his legs but his military career as well.

[*English*]

As the committee recounts in its report, retired Major Henwood discovered, in due course, that the Service Income Security Insurance Plan, SISIP, which he was obliged to pay into, did not compensate him for his dismemberment. Instead, it was an income security plan.

• (1440)

In his appearance before your Subcommittee on Veterans Affairs, Major Henwood raised these issues resulting from his accident. The first issue was the military's grievance settlement procedure that does not equate with timeliness and with equity in its treatment of those pursuing grievances. The second issue was the less-than-satisfactory treatment of the injured soldier and his or her family following the injury and through treatment and rehabilitation. The third and, perhaps, most important issue was the lack of any form of accidental death and dismemberment insurance for members of the Canadian Forces below the rank of colonel.

I would like to say a few words about the first issue, our Armed Forces' grievance procedure. Taking the case of Major Henwood, because it is the case we know best, let us look at the timelines for the grievance process. He was injured on September 27, 1995, and released from the forces on April 1, 1998. In the spring of 1997, he was told that, under SISIP, he would receive no long-term

disability benefits. In May 1997, he began the grievance process. It has gone on now for more than six years, and he is still waiting for a decision from the Chief of the Defence Staff. This, honourable senators will agree, is unacceptable.

What is also unacceptable is the limited mandate of the Grievance Board. It should be able to deal with issues of fairness and equity as between ranks in the forces. The grievance process must change to ensure that our Armed Forces personnel receive just and equitable treatment in a timely fashion.

The second issue raised by Major Henwood's testimony related to the treatment of personnel and their families while the injured person is seeking treatment and recuperating. From the testimony we received, we learned that very little support is provided. When Veterans Affairs Minister Ray Pagtakhan appeared before the committee on May 14, we were assured that improvements had been made. However, your subcommittee believes that much remains to be done. That is why the committee has recommended that the Armed Forces assign an officer to contact as a champion of the interests of the injured party and his or her family. This would begin to at least address the helplessness and isolation that seem to occur after an accident. This is the time when the family needs support, both emotionally and financially. It should be provided. We will, of course, monitor the progress of both the Department of National Defence and Veterans Affairs in this matter.

The third issue which is addressed by Bill C-44 has been resolved on a "go-forward" basis. In his testimony before the Subcommittee on Veterans Affairs, Defence Minister John McCallum stated that the government would be contributing funds to finance future accidental dismemberment benefits. This is the substance of Bill C-44 and so compensation will be in place for future accidents and claims. Beginning in April 2003, all Canadian Forces personnel, regardless of rank, will be covered for accidental dismemberment while on duty.

I am comforted by the testimony given before the Standing Senate Committee on National Security and Defence that Bill C-44 gives exactly the same coverage, from lieutenant-colonel down to private, as was previously in effect for the ranks of colonel to general.

The minister also indicated that a review would be carried out to determine how many Armed Forces personnel had been injured in this way from 1972, when the senior officers were given coverage, to the present. He undertook to use his best offices to work out some method of retroactive compensation for these men and women. Specifically, his phrase was "to exhaust every avenue in an effort to do something positive on this front." I note that clause 4 of the bill and the attached schedule deal with this retroactive coverage. Clause 7 allows application for coverage by all those who may have been injured and provides for payment for loss to the estates of those who died before the coming into effect of this law. I understand, from testimony given before the committee hearings on Bill C-44, that there are potentially 114 living claimants and 81 deceased claimants.

Honourable senators, let me be the first to state that the minister has been true to his word and I would like to be among the first to congratulate him. As I said in my forward to the committee's report:

It is rare, in public life, that one has the opportunity to effect real change to public policy that will have a positive effect on the lives of a group of Canadians. But, thanks to the incredible determination of Major Bruce Henwood, the compassion and support displayed by his family during severely trying circumstances, the Subcommittee on Veterans Affairs was able to expose issues of inequity and unfairness and to bring about positive change...

The subcommittee owes a deep debt of gratitude to Major Henwood and to his family for shedding light on this matter. He put his pain to constructive use, and his dogged determination will benefit future generations of military personnel.

The thanks of the subcommittee also go to General Christian Couture, Assistant Deputy Minister, Human Resources; and to the Minister of National Defence, John McCallum, who recognized the inequity, undertook to rectify it and, most important, did so. It is not easy in Ottawa to effect change quickly, however egregious the injustice. This is particularly challenging when the necessary changes are to be retroactive in effect. It is during the first day of law school that one learns that retroactivity is something to be avoided at all costs. I reiterate my congratulations to the Assistant Deputy Minister, Human Resources, and to the minister.

Honourable senators, my hope is that we can pass Bill C-44 in an expeditious manner so that those who suffered will immediately be able to seek compensation. Having said this, it is my intention to ensure the subcommittee monitors the implementation of Bill C-44 so that we can report to the Senate, from time to time, on what we believe will be the success of this bill.

**The Hon. the Speaker *pro tempore*:** Are honourable senators ready for the question?

**Hon. Senators:** Question!

**The Hon. the Speaker *pro tempore*:** Is it your pleasure, honourable senators, to adopt the motion?

Motion agreed to and bill read third time and passed.

[*Translation*]

### BUDGET IMPLEMENTATION BILL, 2003

#### THIRD READING—MOTION IN AMENDMENT— DEBATE CONTINUED—VOTE DEFERRED

On the Order:

Resuming debate on the motion of the Honourable Senator Carstairs, P.C., seconded by the Honourable Senator Robichaud, P.C., for the third reading of Bill C-28, to implement certain provisions of the budget tabled in Parliament on February 18, 2003,

[ Senator Meighen ]

And on the motion in amendment of the Honourable Senator Nolin, seconded by the Honourable Senator Murray, P.C., that the Bill be not now read a third time but that it be amended in clause 64, on page 55,

(a) by deleting lines 11 to 39; and

(b) by renumbering clauses 65 to 130 as clauses 64 to 129, and any cross-references thereto accordingly.

**Hon. Roch Bolduc:** Honourable senators, I support the proposal made by my honourable colleague Senator Nolin. I agree with his amendment. I listed the reasons why this bill must be amended. I want to be clear in saying that this is not the minister's fault, although as minister he is responsible; rather this is a bureaucratic error. I must insist on this.

Senator Moore spoke very eloquently on this matter. He was very clear and to the point. I am certain that those familiar with the bill will see that this is a bureaucratic error that must be corrected. I am being very frank here.

[*English*]

**Hon. Joseph A. Day:** Honourable senators, I rise to speak briefly against the proposed amendment of Honourable Senator Nolin. This amendment was explored extensively and rejected at the Standing Senate Committee on National Finance. That exact same amendment was brought forward in the house and was subsequently ruled out of order by His Honour. Senator Nolin then proposed a second amendment. The effect of the second amendment, honourable senators, is to clean off entirely the proposed correction by the government, as opposed to creating one special group, as proposed in the earlier amendment.

• (1450)

Honourable senators, let me put this in perspective. This is an amendment to Bill C-28 — the proposed implementation of the Minister of Finance's budget for the coming year. The proposed amendment relates to one small portion of the budget implementation bill, a portion that took up most of our time on two full days of hearings at the Standing Senate Committee on National Finance. Two full days were spent on this precise point. As Honourable Senator Moore indicated, he had an opportunity to attend one of those two meetings, and he gave his views from having heard the deliberations at one of those meetings.

Honourable senators, with respect to the proposed amendment, Senator Mahovlich described the situation quite clearly, in metaphoric language. He described it as a large tub with a plug in it; the plug was out and the government was putting it back in.

What this proposed amendment does, honourable senators, is take the plug back out again. It leaves it wide open, not only retrospectively but also forwardly; it continues, until somehow we get the plug back in. To paraphrase Senator Mahovlich's metaphoric description, this is the government's attempt at correcting a situation.

Honourable Senator Moore used another metaphor when he likened it to the government moving the goal posts. Honourable senators, that is not the case. This is not a situation where everyone was operating under a set of rules and thought something completely different prior to the government making the announcement. This is a situation in which everyone believed the rules were those that were being administered.

From the very beginning, all the school boards were being rebated 68 per cent of their GST. Everyone understood they were getting 68 per cent back. Everyone was operating under the rules until a tax consultant told a number of school boards that they were entitled to a 100 per cent GST rebate.

**Senator Lynch-Staunton:** Shocking.

**Senator Day:** A court case was initiated. The board lost its case at the Tax Court and appealed to the Federal Court of Appeal. The goal posts were moved when the tax consultants, who work on a commission, came along and said: "We will do this for you."

**Senator Lynch-Staunton:** Lawyers do not do that, of course. We are not talking about you.

**Senator Day:** That group is the Deschênes group. That group has been excluded because they went to the Federal Court of Appeal.

The school boards we are talking about in this particular instance are all the school boards across Canada — all of them — other than that small group that initiated a court case and took it through to the Federal Court of Appeal and got judgment. Given that the others did not get judgment before the announcement, there is no logical reason why that group should be excluded from the provisions of this proposed legislation.

One of the arguments I have heard is that it took the government too long to take this step. The government wanted to introduce a bill after the Minister of Finance brought forward his documents. It was a timing issue. The announcement was made on December 21, 2001, and, a year and two months later, Bill C-28, to implement certain provisions of the budget, contains a provision to fulfil the undertaking made by the Minister of Finance in December 2001.

Honourable senators, there was no mishandling of that issue by the federal government.

The second issue, honourable senators, that I will speak briefly to, is the issue of retroactivity. No one likes to operate retroactively on a continuous basis; however, this is another example of where retroactivity is necessary. I have deep respect for the witnesses who came before us in committee on this particular matter. The Honourable Marc Lalonde, although he was not a witness, was very helpful in bringing forward a particular point of view, and we have a lot of respect for Mr. Lalonde and his clients. I also have the greatest respect for Roger Tassé, who was one of our witnesses, along with Simon Potter, Chairman of the Canadian Bar Association. None of the witnesses said that retroactivity was beyond the power of

Parliament; in fact, they agreed that retroactivity is within the jurisdiction and the power of Parliament. Parliament is supreme, and there are certain guidelines that the government uses to exercise retroactivity. That is what we asked the government to do with respect to the Henwood bill, that was just passed. That is retroactivity. We do those things.

Yesterday, we dealt with retroactivity with respect to veterans, to ensure that veterans from previous years were compensated retroactively for their service that had passed. The rules were different, but we recognized that there was a wrong that needed correcting.

In this case, honourable senators, we have a situation where everyone knew the rules. Everyone was operating under those rules. This proposed legislation, although it acts retroactively, if you see fit to pass it, will confirm that practice. It does not change the practice that was; it confirms it.

Honourable senators, under those circumstances, I respectfully request that you reject this amendment and support the bill as presented.

**Some Hon. Senators:** Hear, hear!

[*Translation*]

**Senator Bolduc:** Honourable senators, Senator Day was right in what he said, but he was not talking about the subject at hand. The subject is the second group of school boards. That is what is important. He did not speak about that group. However, they filed their applications from 1997 to 2002, and they were ready to go to trial. In the end, because the Federal Court had already sided with the first group, government lawyers said to them, "If you put your application aside, it will be fine; you will get your money." But that is not what happened; the minister came in and imposed retroactivity. We have nothing against retroactivity; our problem with the minister is that he is applying the change retroactively when he knew quite well that the lawyers had agreed to consent to judgment. I will say this: That is unacceptable.

I am referring to the second group of school boards. I am not talking about those that did not file their application, but those who were before the courts, who had filed all of their papers properly. They had received consent to judgment from the government, and then the Minister of Finance said, an hour later, "No, we are going to do it differently." It makes no sense whatsoever. This is a serious mistake, I can tell you.

Do you know what happened? Some junior official somewhere in the Department of Finance made a mistake. He included this in the budget and the minister did not have the time to read it. I can give another example like this: During the 1995-96 budget, Marcel Masse, someone I know quite well, had done a study on the federal budget. He took a careful look at the programs, and made cuts. With regard to the Department of National Defence — with a \$12 billion budget — people said, "Since the minister wants us to make cuts, we will." They came back with a very lengthy proposal that contained about 195 recommendations for cuts to defence. Among these cuts, at the bottom of one page, was the

elimination of the National Defence College. At the bottom of another page, the Collège militaire de Saint-Jean was eliminated, just like that. This was just like what the junior official I described did at the Department of Finance. Clearly, the minister did not see it. The same thing happened here.

• (1500)

I said to Marcel Masse, when he appeared before the committee, that he had just eliminated the Collège militaire de Saint-Jean; that he had just decided that it was a pointless expenditure in the defence department's budget. I told him that it was not only a college, but also a recruiting tool to bring French Canadians into the federal armed forces. It represented an equal opportunity for French Canadians to go to school, learn a discipline, finish at the RMC in Kingston and become bilingual officers there. It was a necessary gateway to provide an equal opportunity to enter the Canadian Forces. It was wiped out with a stroke of the pen. Look at what will happen in 20 years in the navy and the air force. We will talk about it again. It is not acceptable. I want you to know that and I am very knowledgeable in this field.

**Senator Day:** I do regret the closing of the Collège militaire de Saint-Jean, as well as the college in Victoria.

[English]

I did not speak of Group 2 in particular because the amendment before us deals with a much broader group. Group 2 was dealt with by the amendment that the Speaker ruled to be out of order.

For the information of honourable senators — and because my friend Senator Bolduc spoke so passionately about Group 2 — that group was represented by legal counsel. In a letter written to the legal counsel, Justice Canada stated:

Please note that the proposed retroactive amendment to the GST affecting school authorities announced in the Department of Finance December 21, 2001, press statement was not withdrawn or modified. According to our understanding of that press release, the proposed amendment will have no effect on the cases that have been decided by the Federal Court of Appeal...but will apply to all other proceedings —

— including those proceedings, Group 2.

The lawyer could have negotiated this, but the lawyer writes back, acting on behalf of Group 2. He states that, "We understand that this settlement is binding notwithstanding whether a retroactive amendment as announced..." becomes law or not.

That is what they wanted. What does the government say? The government writes back and states:

We do not understand the meaning of the second paragraph....

On the basis of the Minister of Finance's press release of December 21, 2001, the possibility remains —

— of course, it is up to Parliament, but the possibility remains —

[ Senator Bolduc ]

— that the retroactive amendment to the relevant provisions would have an effect on these proceedings, notwithstanding the judgments of the Tax Court of Canada. In that event, the present settlement will not constitute a constraint on the power of the Minister of National Revenue to reassess in accordance with the terms of such retroactive amendment.

The lawyers could have negotiated a way out of this. They are now here talking to parliamentarians to bail them out of something they should have done themselves.

[Translation]

**Senator Bolduc:** There was consent to judgment. The government spoke out of both sides of its mouth: the Solicitor General said one thing and the Minister of Finance said another.

[English]

**The Hon. the Speaker:** I regret to advise honourable senators that Senator Day's 15 minutes have expired.

**Hon. John G. Bryden:** Honourable senators, I have just been reminded that we are getting awfully close to the last time that Senator Bolduc will be able to participate in such an impassioned debate, and I for one will clearly miss it.

[Translation]

**Senator Comeau:** Has Senator Day finished speaking?

**Hon. Marcel Prud'homme:** Very briefly, honourable senators, I think that Senator Bolduc has expressed exactly what I wanted to say this afternoon. I had prepared some notes. Among the major mistakes he pointed out to us, two struck me particularly. I have never accepted the closing of the Collège Militaire de Saint-Jean. You can see that we are now paying for that huge mistake because the recruitment of bilingual officers in the Department of Defence has gone down considerably ever since. The second point is the break-up of the Airborne Regiment. In order to correct one error, a great institution has been destroyed — one that would have been very useful to us this coming summer. You know, of course, that we are going to send more than 1,000 military personnel to one of the most dangerous strategic locations, Afghanistan. Soldiers of the calibre of those in the Airborne Regiment, if it had not been eliminated for all sorts of other reasons, would have been very useful in carrying out the duties we will assign to others this summer.

[English]

**The Hon. the Speaker:** Are honourable senators ready for the question on Senator Nolin's motion in amendment?

**Hon. Senators:** Question!

**The Hon. the Speaker:** Is it your pleasure, honourable senators, to adopt the motion in amendment?

**Some Hon. Senators:** No.

**Some Hon. Senators:** Yes.



**The Hon. the Speaker:** I am unable to make a determination from that voice vote. I will put the question in a formal way.

Will those in favour of the motion in amendment please say “yea”?

**Some Hon. Senators:** Yea.

**The Hon. the Speaker:** Will those opposed to the motion in amendment please say “nay”?

**Some Hon. Senators:** Nay.

**The Hon. the Speaker:** I believe the “nays” have it.

*And two honourable senators having risen:*

**The Hon. the Speaker:** Call in the senators.

**Hon. Bill Rompkey:** Could we agree to a half-hour bell?

**Hon. Terry Stratton:** No, a 24-hour bell.

**The Hon. the Speaker:** The opposition whip has requested a deferral, as he is entitled to do under rule 67(2). Accordingly, the vote will be held tomorrow afternoon at 5:30 p.m., with a 15-minute bell, according to our rules.

**Senator Stratton:** Honourable senators, I would suggest, if I may, that the vote be held at 3:30 p.m. tomorrow.

**Senator Rompkey:** We would prefer to hold the vote at 5:30, with a 15-minute bell.

**The Hon. the Speaker:** We must have unanimity on that matter. Accordingly, the rule will prevail. The vote will be at 5:30 p.m. tomorrow, with a 15-minute bell.

## SPECIFIC CLAIMS RESOLUTION BILL

### REPORT OF COMMITTEE—DEBATE CONTINUED

On the Order:

Resuming debate on the motion of the Honourable Senator Chalifoux, seconded by the Honourable Senator Adams, for the adoption of the fourth report (revised) of the Standing Senate Committee on Aboriginal Peoples (Bill C-6, to establish the Canadian Centre for the Independent Resolution of First Nations Specific Claims to provide for the filing, negotiation and resolution of specific claims and to make related amendments to other Acts, with amendments) presented in the Senate on June 12, 2003.

**Hon. Terry Stratton:** Honourable senators, I rise to speak to the fourth report of the Standing Senate Committee on Aboriginal Peoples, with respect to Bill C-6, the specific claims resolution bill.

• (1510)

The committee heard testimony from various Aboriginal groups across the country. Two things struck me quite hard, which bear repeating. One was the patience that these people have

with the Government of Canada. Over the years, they just keep coming back, hoping that, one day, the Government of Canada will listen to them. Second, the issue that really struck me was the close relationship that the Aboriginal peoples have to the land.

I would like to quote part of the presentation by Chief Roberta Jamieson from the Six Nations of the Grand River Territory. In the introduction on page 1 of her brief, she wrote:

I would like to share with you a Haudenosaunee (Iroquois) teaching:

One day there was a young boy out hunting alone in the bush. He heard a voice calling to him. He stopped and looked around but did not see anyone and continued on his way. He heard the voice again, telling him to look down. The young boy realized that the voice was coming from a stone. He sat next to the stone and listened. For several days the young boy would come and sit by the stone listening. He would bring fish and game for the stone as thanks for sharing the wonderful stories of life. The young boy started telling the people in his village about the stories and things that he was learning from the stone and they began to come and listen too. Soon all the people in the village were happier and treating each other better from listening to the stories that the stone shared.

Chief Jamieson continued:

As with all teachings, it has a lesson. It demonstrates the respect and tie that we experience with the land. Our ancestors listened and heard the messages provided by the land and the resources upon which we now rely. Lessons were taken from nature and acted upon. The messages are heard. Six Nations hopes that the Standing Committee on Aboriginal Peoples does nothing less.

She goes on in the last paragraph of the introduction to say, in reference to Bill C-6 and the House of Commons, that:

Sadly, the machinery of Canadian democracy leaves us distanced from our lands and resources; still seeking fair resolution. Bill C-6 does not provide the fair, independent and speedy solution to long outstanding historical obligations on the part of the federal government that is being sought. Many First Nations were not heard by the House of Commons Standing Committee or the House below, literally. Their requests to attend the hearings disregarded. Another Nations' representatives are still making decisions that impact directly on our daily lives, thus well-being, without hearing our voices.

That needs to change.

With that in perspective, I would like to turn now to the presentations made by the various Aboriginal groups to our committee. Over 50 groups requested to make presentations and fewer than half were heard. That reflects precisely the concern that Chief Roberta Jamieson had with the presentations in the House of Commons.

It was also remarkable that the vast majority of the presenters wanted Bill C-6 rejected outright, without amendments. Why? Because in large part the minister had brought together the Aboriginal peoples in a joint task force to look at what should take place with respect to changes. After great effort and time, they brought forward the joint task force report, which in the Aboriginal peoples' minds was largely ignored.

What we saw in the Aboriginal presentations, time after time, was that the Aboriginals were consistently saying, "Reject the bill. Go back; tie in with the Aboriginal peoples again, and bring forward a new bill because this bill should not and cannot be saved."

I will quote again from Chief Roberta Jamieson, at page 11 of her brief. She concludes her presentation to the committee by saying:

Therefore, Six Nations of the Grand River Territory asks this committee to hear our voices and recommend Bill C-6, *An Act to establish the Canadian Centre for the Independent Resolution of First Nations Specific Claims, to provide for filing, negotiation and resolution of specific claims and make related amendments to other acts, "The Specific Claims Resolution Act,"* not be passed to enable a return to a co-operative partnership between First Nations and Canada so that a bill that achieves justice and fairness for First Nations and all Canadians, may be produced.

That was just one example of many presentations that had to do with the outright rejection of this bill.

I will take honourable senators to another part of the country, to the West, and a presentation by the Federation of Saskatchewan Indian Nations. In their brief to the committee, they stated:

The Federation agrees with the legal analysis of Bill C-6 undertaken by the AFN, a copy of which has been given to this Committee. After our own extensive analysis, we too have concluded that Bill C-6 does not provide a process that is effective, fair or expeditious. It does not remove the conflict of interest in having Canada judge the majority of claims against itself. In fact, in some ways the Bill would create a system that is worse than the current one. If the Bill is passed, the result will be more claims being dealt with by the courts, at greater cost to First Nations and Canada, and with greater chances of harmful confrontations. The Minister of Indian Affairs has recently stated that he wants to reduce the amount of money spent on lawyers and consultants, but the opposite is what would happen if this Bill were to pass into legislation.

The presenter went on to say that:

It is my position that Bill C-6 is fundamentally flawed and that it should be withdrawn. The Federal Government and First Nations should then return to joint negotiations to

develop a Bill that meets the needs of First Nations, while addressing the concerns of the Federal Government.

Those are two examples of the vast majority of the presentations that called for the outright rejection of this bill.

The minister, in his presentation to the committee, referred to the joint task force report. He stated that there were two areas where they did not agree with the joint task force report and, therefore, did not follow the recommendations of the task force report. However, the Aboriginal presentations stated to us quite clearly that far more than just two references to the JTF were ignored. As a result, because there were so many problems with the bill, not just two, they maintained that the bill should be rejected. There was a conflict between what the minister had stated and what the Aboriginals had been stating with respect to the JTF.

• (1520)

I will now address the concerns that resonated throughout the presentations. The first is with respect to removal of the cap that was based at \$7 million. As the committee report indicates, the cap has been bumped up to \$10 million through Amendment No. 2. However, the total sum of money devoted to the payouts of these claims does not change; it remains the same. At least, that is my interpretation of it.

The second concern that struck me relates to the delay. The process is precisely described, as best as possible, in a graph that maps out the route through. It is like a maze. Except in the first instance, where the minister must respond within six months, no other time element was applied to this process. Therefore, the minister or the government could take as long as they want to work through the process. This is of great concern amongst the Aboriginals. How can a process for these claims be developed whereby no end date is put in place? It could go on and on and on. Honourable senators, I do not believe that that is a situation that we should live with. We must try to do something with respect to that.

The other issue is that, if we are going to deal with claims and overcome the time problem with respect to them, we need to apply more resources to the process. If there is a lack of resources to move the claims through the system, how can we possibly assure the Aboriginal peoples that they have a time-sensitive government responding to them? In my view, it is absolutely critical that more resources must be dedicated to this.

Another issue that was debated was the non-derogation clause. Many of us felt that while the Senate was looking at the non-derogation clause — and yes, it is covered off already — many of the Aboriginal presentations indicated that it was important to reiterate, in this particular case.

I want to refer to the observations because I was bothered by a particular instance. In the first draft of the observations, one definition that was proposed to us, but was withdrawn, related to do with the definition of "claim." That definition read as follows:

The definition of claim in the Bill appears to be narrower than that currently allowed under the Specific Claims Policy or which might be allowed based on evolving case law. Specifically claims based on treaty rights other than to land or assets, claims arising from unilateral undertakings of the crown, and certain pre-Confederation claims could all be excluded from the Centre's work. We have been told that this could eliminate many of the claims currently in the system or that First Nations have been preparing.

Senator Sibbeston assured the committee that, after checking with the ministry, this was no longer a problem or required as an observation. He gave us assurances that that was not needed. We had gone that far down the track and were presented with an observation, and then there was no discussion other than one piece of evidence given by one committee member that it was no longer needed. There was no real discussion about that — none at all.

Lastly, what really rankles with respect to the observations is that we asked for an observation indicating that the joint task force report was ignored and that the vast majority of the presentations by the Aboriginal peoples recommended outright rejection of the bill. The minister should take note —

**The Hon. the Speaker:** Senator Stratton, I am sorry to interrupt, but your 15 minutes have expired.

**Senator Stratton:** I have perhaps three minutes left.

**The Hon. the Speaker:** Is leave granted, honourable senators?

**Hon. Senators:** Agreed.

**Senator Stratton:** It was important that that observation be made and included in the report as a message to the minister of just what transpired throughout those committee hearings and what the Aboriginal peoples stated quite clearly.

Honourable senators, consideration should be given to the outright rejection of this bill at third reading.

[*Translation*]

**Hon. Aurélien Gill:** Honourable senators, I must admit that I am both sad and disappointed. I still live on my reserve. I have friends there, my children are there and I suffer the consequences of decisions taken by the Department of Indian Affairs and Northern Development. I also suffer from decisions taken within federal or provincial institutions.

Today, I will not put forward an amendment because I am not skilled at that. Instead, I will express my feelings about Bill C-6. In my view, it contains administrative arrangements rather than true amendments. Instead of responding to the real needs of our First Nations' communities, this bill is an attempt to facilitate the work of officials at the Department of Indian Affairs and Northern Development.

As they are aware of the deplorable situation in First Nations' communities, some senators have described their sadness upon

visiting the communities. The sadness expressed was profound, even if the visits lasted only a day, an hour, or a minute. I sense that these visitors would have a hard time living with the situation in our communities for more than an hour or a day.

These visits illustrate to what extent the situation is not always very pleasant. The First Nations have been living in deplorable conditions for so many years. They have suffered for a very long time and have been denied their rights as full-fledged citizens.

• (1530)

I know that several colleagues in the Senate are lawyers. They often claim that we live under the rule of law. Is there one law for Aboriginals and another for governments and legislators in this House? We live under the rule of law.

We are kept out of any real participation in the development of a country we love, a country in which we are considered foreigners. The Indian Act still considers us to be minors. Read it and you will see.

Yet this country welcomed the first Europeans, your ancestors for the most part, with open arms. Why is the Department of Indian Affairs and Northern Development imposing solutions that do not respond in any way to the real needs of First Nations in this country? Why is it that, in 2003, we still have to beg?

Bill C-6 ought to protect the rights of this country's first citizens. If laws do not exist to protect these rights, what hope do we have? How can it be that, after several years of consultations between the Department of Indian Affairs and the First Nations, these were stopped, and then the minister came along with this Bill C-6, the format and content of which does not correspond to the needs of the First Nations? There was much reference to this at the hearings of the Aboriginal Peoples Committee. To my knowledge, there was not a single witness, Aboriginal or non-Aboriginal, who did not point out certain problems with this bill. What they wanted, quite simply, was for negotiations on the bill be resumed or major amendments brought forward. And there are none. What is the point in holding public hearings? To support the department? Why are the Aboriginal senators here? To take part and to be accepted as full-fledged citizens? What are we doing here?

Why did they not respect the desire of the First Nations to return to the negotiating table within a true partnership so as to achieve fair consultations in keeping with their needs? When are we going to stop considering the leaders of the First Nations as threats, as irresponsible and incompetent? Sometimes attempts are made to avoid us. People prefer to deal with participants that are not Aboriginal. I am not talking through my hat here.

When are we going to stop all these insults and humiliations aimed at a civilization that has been in this land, its own land, for thousands of years? There is much more I could say on this, but I will stop here. I know that the sponsor of Bill C-6 has made an effort, but despite his effort the bill is not equal to the expectations of the First Nations. I would like to hear a comment from the committee chair or the sponsor of the bill.

[*English*]

**Hon. Noël A. Kinsella (Deputy Leader of the Opposition):** Honourable senators, I also wish to participate in this debate. I am not convinced that the Mi'kmaq and the Maliseet people from my region of Canada fully support this proposed legislative measure. I am also concerned about the general principle of Indian rights for Indian women. Therefore, I should like to move the adjournment of the debate.

On motion of Senator Kinsella, debate adjourned.

[*Translation*]

#### BUSINESS OF THE SENATE

**Hon. Fernand Robichaud (Deputy Leader of the Government):** Honourable senators, I have been a little quick on the trigger with respect to reports of committees. I would like to revert to Order No. 2, dealing with the fifth report of the Legal and Constitutional Affairs Committee concerning Bill C-10B.

[*English*]

**The Hon. the Speaker:** Is leave granted to revert to Order No. 2?

**Some Hon. Senators:** No.

**Hon. John Lynch-Staunton (Leader of the Opposition):** Honourable senators, I understood the Deputy Leader of the Government to stand Order No. 2 and then Order No. 3 was called. Therefore, we are on Order No. 3, are we not?

**The Hon. the Speaker:** Senator Robichaud asked for leave, and now I will ask: Is leave granted to do that?

**Some Hon. Senators:** No.

**Hon. Anne C. Cools:** Honourable senators, I do not understand what happened. I heard the deputy leader rise and request that the question be put on Bill C-10B.

**Senator Lynch-Staunton:** That was after he stood it.

**Senator Cools:** Is the honourable senator telling me that the same person who stood the order was asking for consent to revert to it?

**Senator Lynch-Staunton:** Yes.

**Senator Cools:** Then he obviously made a mistake, honourable senators. It was a simple mistake. We can certainly understand that and revert to the order.

**The Hon. the Speaker:** We have dealt with that, Senator Cools. Leave was requested and withheld.

[*Translation*]

**Senator Robichaud:** Honourable senators, today is Wednesday, and normally we try to finish our work in the Senate at 3:30 p.m. to allow committees to meet. There are four committees that are supposed to meet today. Will the Senate give leave to have all items that have not been reached stand in their place on the Order Paper until the next sitting of the Senate?

[*English*]

**The Hon. the Speaker:** Is it agreed, honourable senators, that all remaining items stand on the Order Paper until the next sitting and that we proceed to the adjournment motion?

**Hon. Senators:** Agreed.

[*Translation*]

The Senate adjourned until Thursday, June 19, 2003 at 1:30 p.m.

## CONTENTS

Wednesday, June 18, 2003

	PAGE		PAGE	
<b>SENATORS' STATEMENTS</b>		<b>Justice</b>		
<b>Tributes</b>		Same-Sex Marriage.		
The Honourable Raymond C. Setlakwe, C.M.		Hon. Douglas Roche . . . . .	1723	
The Hon. the Speaker . . . . .	1718	Hon. Sharon Carstairs . . . . .	1724	
Hon. Sharon Carstairs . . . . .	1718	Hon. Jean-Claude Rivest . . . . .	1724	
Hon. Jean-Claude Rivest . . . . .	1718	Hon. Roch Bolduc . . . . .	1724	
Hon. B. Alasdair Graham . . . . .	1718	Hon. Gerry St. Germain . . . . .	1725	
Hon. Yves Morin . . . . .	1719	<b>Prime Minister's Office</b>		
Hon. Richard H. Kroft . . . . .	1719	Cost of G-8 Summit.		
Hon. Isobel Finnerty . . . . .	1720	Hon. James F. Kelleher . . . . .	1725	
Hon. Lise Bacon . . . . .	1720	Hon. Sharon Carstairs . . . . .	1725	
Hon. Raymond C. Setlakwe . . . . .	1720	<b>Justice</b>		
<hr/>		Same-Sex Marriage.		
<b>ROUTINE PROCEEDINGS</b>		Hon. Noël A. Kinsella . . . . .		1725
<b>Library of Parliament</b>		Hon. Sharon Carstairs . . . . .		1725
Second Report of Joint Committee Tabled.		<b>Heritage</b>		
Hon. Yves Morin . . . . .	1721	Calgary Philharmonic Orchestra—Request for Funds.		
<b>Study on Impact of Climate Change</b>		Hon. Tommy Banks . . . . .		1725
Report of Agriculture and Forestry Committee Tabled.		Hon. Sharon Carstairs . . . . .		1726
Hon. Donald H. Oliver . . . . .	1721	<b>Tribute to Pages on Departure</b>		
<b>Merchant Navy Veterans Day Bill (Bill C-411)</b>		The Hon. the Speaker . . . . .		1726
Report of Committee.		<b>Visitors in the Gallery</b>		
Hon. J. Michael Forrestall . . . . .	1721	The Hon. the Speaker . . . . .		1726
<b>National Finance</b>		<hr/>		
Notice of Motion to Authorize Committee to Meet		<b>ORDERS OF THE DAY</b>		
During Adjournment of the Senate.		<b>Appropriation Bill No. 2, 2003-04 (Bill C-47)</b>		
Hon. Fernand Robichaud . . . . .	1721	Third Reading.		
<b>Constitution Act, 1867</b>		Hon. Joseph A. Day . . . . .		1726
Notice of Motion to Amend Section 16.		<b>Injured Military Members Compensation Bill (Bill C-44)</b>		
Hon. Jean-Robert Gauthier . . . . .	1721	Third Reading.		
<hr/>		Hon. Michael A. Meighen . . . . .		1726
<b>QUESTION PERIOD</b>		<b>Budget Implementation Bill, 2003 (Bill C-28)</b>		
<b>National Defence</b>		Third Reading—Motion in Amendment—Debate Continued—		
Request for Inquiry into Accounting and Management Practices.		Vote Deferred.		
Hon. Michael A. Meighen . . . . .	1722	Hon. Roch Bolduc . . . . .		1728
Hon. Sharon Carstairs . . . . .	1722	Hon. Joseph A. Day . . . . .		1728
Delays in Processing Recruitment Applications.		Hon. Roch Bolduc . . . . .		1729
Hon. Michael A. Meighen . . . . .	1722	Hon. John G. Bryden . . . . .		1730
Hon. Sharon Carstairs . . . . .	1722	Hon. Marcel Prud'homme . . . . .		1730
Replacement of Sea King Helicopters—Operational Requirements.		Hon. Bill Rompkey . . . . .		1731
Hon. J. Michael Forrestall . . . . .	1722	Hon. Terry Stratton . . . . .		1731
Hon. Sharon Carstairs . . . . .	1723	<b>Specific Claims Resolution Bill (Bill C-6)</b>		
<b>Finance</b>		Report of Committee—Debate Continued.		
Pension Plans—		Hon. Terry Stratton . . . . .		1731
Difference Between Public- and Private-Sector Surplusage.		Hon. Aurélien Gill . . . . .		1733
Hon. David Tkachuk . . . . .	1723	Hon. Noël A. Kinsella . . . . .		1734
Hon. Sharon Carstairs . . . . .	1723	<b>Business of the Senate</b>		
		Hon. Fernand Robichaud . . . . .		1734
		Hon. John Lynch-Staunton . . . . .		1734
		Hon. Anne C. Cools . . . . .		1734







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